

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**HONORA HILLIER**

**PLAINTIFF**

**VS**

**CAUSE NO. 1:08 CV 671LG-RHW**

**USAA CASUALTY INSURANCE COMPANY**

**DEFENDANT**

**PLAINTIFF'S MOTION TO LIMIT THE TESTIMONY  
OF DONALD SLINN, USAA'S EXPERT**

COMES NOW the Plaintiff, Honora Hillier and moves to limit the testimony at trial of Donald Slinn, an expert designated by the Defendant, USAA Casualty Insurance Company ("USAA"). Slinn is expected to testify at trial about meteorological issues as well as the cause of the destruction of the Hillier residence during Hurricane Katrina.

**Slinn Should Be Precluded from Testifying Regarding Engineering Issues Because  
the Giving of that Testimony Would Itself Constitute a Crime.**

Slinn is not licensed to practice engineering Mississippi and state law bars him from offering engineering opinions at trial. Slinn cannot offer testimony at trial about engineering at trial since he would be committing a crime by doing so. A court cannot countenance or condone the commission of a crime in its courtroom.

Slinn is not licensed to practice engineering in the state of Mississippi. The practice of engineering in Mississippi includes any consultation requiring special knowledge of the mathematical, physical or engineering sciences insofar as it involves safeguarding life, health or property. Miss. Code Ann. § 73-13-3. That includes offering expert technical testimony. Id.

The “practice of engineering” specifically includes forensic engineering services and services for the purposes of determining causes of failures. Exhibit A, Rule 2.04, Mississippi Board of Licensure for Professional Engineers and Surveyors Rules and Regulations. The Board provides a limited licensure for the purpose of giving testimony regarding engineering issues. Id., Rule 4.05. USAA’s own Mississippi engineer, Lori Cox, testified that giving testimony about the cause of hurricane damage to structures is the practice of engineering. Exhibit B, Dep. of Lori Cox at 39.

It is a crime for a person not licensed as an engineer in the state of Mississippi to practice engineering without a license. Miss. Code Ann. § 73-13-39. Accordingly, it is a crime under Mississippi law for a non-licensed engineer to offer testimony regarding forensic services or the causes of failures.

Slinn testified that he is not licensed as an engineer in the state of Mississippi. Exhibit C, Deposition of Donald Slinn at 9. It is a crime under the laws of Mississippi for Slinn to testify on engineering matters if he is not licensed to do so. Accordingly, Mississippi law prohibits Slinn from testifying on engineering issues in the state of Mississippi.

The Court should refuse to allow Slinn to enter the court for the express purpose of committing a crime in it, any more than a non-lawyer would be allowed to practice law in a court, or a witness would be allowed to commit perjury. Such conduct is improper in a court of law and shows contempt for the legal process. Slinn should not be allowed to commit a criminal act under the laws of Mississippi by giving expert testimony about engineering issues in this case.

USAA has designated five persons to testify as engineering experts in this case --- Lori Cox; Michael Hummel; Ralph Kean Slinn, III; David Teasdale; and Donald Slinn. Of those five, only two --- Cox and Teasdale --- are licensed in Mississippi and can lawfully testify about engineering issues. Two engineers are sufficient to testify as to the cause of the damage to the Hillier home. The testimony of five engineering experts would be cumulative and confusing. It will cause no prejudice to USAA for the court to exclude the engineering experts who would be committing a crime in this state merely by taking the witness stand.

Based on the foregoing, Plaintiff respectfully requests that this Court limit Slinn's testimony to meteorological issues and exclude all testimony relating to the cause of damage to the Hillier property.

DATED: November 3, 2009

HONORA HILLIER  
Plaintiff

BY: /s/ Tina L. Nicholson  
TINA L. NICHOLSON, MSB#99643

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document has been filed with the CM/ECF system which will furnish a true and correct copy to all counsel of record in this case.

This the 3<sup>rd</sup> day of November, 2009.

/s/ Tina L. Nicholson

TINA L. NICHOLSON, MSB #99643

MERLIN LAW GROUP, P.A.  
Three Riverway, Suite 1375  
Houston, TX 77056  
Tel: (713) 626-8880  
Fax: (713) 626-8881  
[tnicholson@merlinlawgroup.com](mailto:tnicholson@merlinlawgroup.com)